



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

March 30, 2010

Mr. Russell Speidel  
Speidel Law Firm  
PO Box 881  
Wenatchee, WA 98807

**Re: No Further Action at the following Site:**

- **Site Name:** Dvorak Living Trust
- **Site Address:** 1436-1444 N. Wenatchee Ave., Wenatchee, WA
- **Facility/Site No.:** 31885639
- **VCP Project No.:** CE0290

Dear Mr. Speidel:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Dvorak Living Trust facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

**Issue Presented and Opinion**

Is further remedial action necessary to clean up contamination at the Site?

**NO. Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.**

**This opinion is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below.**

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

**Description of the Site**

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following release:



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- Diesel-range hydrocarbons into the soil.

**Enclosure A** includes a detailed description and diagram of the Site as currently known to Ecology.

Please note that a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

### **Basis for the Opinion**

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This opinion is based on the information contained in the following documents:

1. Dames and Moore, Phase I Environmental Assessment and Visual Asbestos Assessment, May 4, 1995.
2. Dames and Moore, Independent Cleanup Action & Phase II Investigation for Dvorak Living Trust, September 23, 1996.
3. Dames and Moore, Soil Investigation – Dvorak Living Trust Property, September 22, 2000.
4. Ecology's Site correspondence file.

Those documents are kept in the Central Files of the Central Regional Office of Ecology (CRO) for review by appointment only. You can make an appointment by calling the CRO resource contact at (509) 454-7658.

This opinion is void if any of the information contained in those documents is materially false or misleading.

### **Analysis of the Cleanup**

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Ecology has concluded that **no further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

#### **1. Characterization of the Site.**

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards and select a cleanup action. The Site is described above and in **Enclosure A**.

**2. Establishment of cleanup standards.**

Ecology has determined the cleanup levels you established for the Site meet the substantive requirements of MTCA.

**a. Cleanup levels.**

MTCA Method A cleanup levels for soil have been selected as the appropriate cleanup standard for the Site.

**3. Selection of cleanup action.**

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA. Multiple investigations and cleanup activities were conducted at the site to remove gasoline- and diesel-range hydrocarbons. Contaminated soil was removed from the Site, but residual diesel-range hydrocarbons remain in soil beneath the former bulk fuel building.

**4. Cleanup.**

Ecology has determined the cleanup you performed meets the cleanup standards established for the Site. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below.

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**Post-Cleanup Controls and Monitoring**

Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

**1. Compliance with institutional controls.**

Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional control is necessary at the Site:

- Environmental Covenant

To implement this control, an Environmental Covenant been recorded on the following parcel of real property at the Site:

- Chelan County Parcel Number: 23-20-33-715-170

Ecology approved the recorded Covenant. A copy of the Covenant is included in **Enclosure B.**

### **Periodic Review of Post-Cleanup Conditions**

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Ecology will conduct periodic reviews of post-cleanup conditions at the Site to ensure that they remain protective of human health and the environment. If we conduct a periodic review and determine further remedial action is necessary at the Site, then we will withdraw this opinion.

### **Listing of the Site**

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Based on this opinion, Ecology will initiate the process of removing the Site from our lists of hazardous waste sites, including:

- Hazardous Sites List
- Confirmed and Suspected Contaminated Sites List

That process includes public notice and opportunity to comment. After the public comment period has ended, Ecology will remove the Site from the applicable lists.

### **Limitations of the Opinion**

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#### **1. Opinion does not settle liability with the state.**

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

#### **2. Opinion does not constitute a determination of substantial equivalence.**

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you

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performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

**3. State is immune from liability.**

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

**Termination of Agreement**

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Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (CEO290).

For more information about the VCP and the cleanup process, please visit our web site: [www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm](http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm). If you have any questions about this opinion or the termination of the Agreement, please contact me at (509) 454-7835.

Sincerely,



Brianne Plath  
CRO Toxics Cleanup Program

Enclosures (2):   A – Description and Diagram of the Site  
                          B – Environmental Covenants for Institutional Controls

cc:     Janet L. Tenold, Property Owner  
          Dolores Mitchell, VCP Financial Manager (without enclosures)